



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,173	02/10/2006	Walid Ali	PHUS030273US	6165

38107 7590 05/24/2010  
PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P. O. Box 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
----------

BEHRINGER, LUTHER G

ART UNIT	PAPER NUMBER
----------	--------------

3766

MAIL DATE	DELIVERY MODE
-----------	---------------

05/24/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/568,173	<b>Applicant(s)</b> ALI, WALID	
	<b>Examiner</b> Luther G. Behringer	<b>Art Unit</b> 3766	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-16.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

/Carl H. Layno/  
Supervisory Patent Examiner, Art Unit 3766

/Luther G Behringer/  
Examiner, Art Unit 3766

While it is not necessary to further identify prior art than what is disclosed in the abstract of the application when it clearly applies, the examiner will do so. Applicant argues that Shimauchi is not directed to matrix generation and comparison. However, Shimauchi states in Col. 3, ll. 5 - 39, utilizing common matrix notation of a capital letter,  $X_n(k)$ , that for each channel the components of the matrix are generated. The examiner is interpreting the input signals indicated in the final office action 11sub1, 11sub2 and 11subn as the input signals. These signals are converted to corresponding  $x(k)$  signals and combined in vector combiner 24.

Regarding applicant's statements on page 8 in the final complete paragraph: the independent claims are rejected under 35 USC 102(b) with a single reference having no reference to modifications of that single reference. The dependent claims are rejected under 35 USC 103(a) under clearly stated multiple references. It is unclear to which rejection applicant's comments are directed. Because applicant's independent claims are broad enough to encompass any noise analysis device, the Shimauchi reference is presented as a 102(b) rejection. Applicant argues that an artifact was not determined in the Shimauchi reference. The examiner equated the echo as equivalent to artifact, which is commonly understood to be noise in the art.

Applicant argues that the combination of Shimauchi with Snyder is not tenable. As applicant states in his specification on page 4, ll. 12 - 20 that his invention is applicable to any artifact detection system, then the converse must also be true: any artifact detection system must be applicable to medical artifacts.

Regarding applicant's argument that it would be unobvious to combine the references: It is widely known that artifact, aka noise, in biological systems can often mask the signal of interest. See common mode noise amplifiers as one example. Therefore, it would have been obvious for one skilled in the art of artifact detection to pursue noise cancellation techniques as they become available.

Applicant states that the double patenting rejection presented 06/22/2009 was withdrawn. This is not the case. Unless expressly stated in an office action, a properly presented rejection is not withdrawn.

It is submitted that the elements that applicant requests clarification on have been discussed in the final rejection dated 03/17/2010 or in this communication.